

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
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ELECTRONICALLY FILED
DOC #:
DATE FILED: 11/13/2019

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff, 1:18-mc-479-AT

v.

JOHN B. KERN,

Defendant.

**FINAL DEFAULT JUDGMENT
ENFORCING COMPLIANCE WITH ORDER
ISSUED BY US SECURITIES AND EXCHANGE COMMISSION**

Petitioner Securities and Exchange Commission (the "Commission") has applied to this Court for a default judgment pursuant to Section 209(d) of the Investment Advisers Act of 1940 ("Advisers Act"), 15 U.S.C. § 80b-9(d), and Federal Rule of Civil Procedure 55 to enforce compliance by John B. Kern, Esq. ("Kern") with the monetary component of a Commission Order dated June 30, 2014 (the "Commission Order"). Kern has failed to appear in this proceeding. Thus, the Court finds that the Commission's application should be granted,

IT IS HEREBY ORDERED, THAT:

1. The Commission's application is GRANTED.
2. Pursuant to Section 209(d) of the Investment Advisers Act, Kern shall, within 30 days of entry of this Judgment, comply with the Commission Order by paying disgorgement in the amount of \$234,577, prejudgment interest of \$8,920 and a civil penalty of \$100,000. Kern shall pay post-order interest pursuant to 17 C.F.R. § 201.600 and 31 U.S.C. § 3717.
3. Payment may be made electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request made to Disgorgement-Penalty@sec.gov and/or (202) 551-7940. Payment may also be made directly from a bank account via Pay.gov through the SEC website at <https://www.sec.gov/paymentoptions>. Kern may

also pay by certified check, bank cashier's check, or United States postal money order, made payable to the Securities and Exchange Commission and setting forth the title and civil action number of this action and the name of this Court; and specifying that payment is made pursuant to this Judgment. The funds may be hand-delivered or mailed to:

Enterprise Services Center
Accounts Receivable Branch
HQ Bldg., Room 181, AMZ-341
6500 South MacArthur Boulevard
Oklahoma City, OK 73169

Payments must be accompanied by a cover letter identifying Kern as the respondent in this action, and the name of this Court and the docket number of this action. A copy of the cover letter and payment confirmation must be sent to Maureen Peyton King, U.S. Securities and Exchange Commission, New York Regional Office, 200 Vesey Street, Suite 400, New York, NY 10281.

4. By making such payment Kern relinquishes all legal and equitable right, title and interest in such funds, and no portion of such funds shall be returned to Kern. The Commission shall send funds received to the United States Treasury.

5. Kern shall pay to the Commission postjudgment interest on any delinquent amounts pursuant to 28 U.S.C. § 1961.

6. If Kern does not pay the above amounts the Commission may enforce this Judgment through the remedies available by law to collect the unpaid balance. Such remedies include:

- a. With respect to disgorgement and prejudgment interest, civil contempt proceedings, all collection procedures authorized by Rule 69(a) of the Federal Rules of Civil Procedure, the state law remedies incorporated therein, including, but not limited to, those of the New York Civil Practice Law and

Rules and the New York Debtor and Creditor Law;

- b. With respect to the civil penalty, all collection procedures authorized by the Federal Debt Collection Procedure Act, 28 U.S.C. §§ 3001 -3308 (including the 10% surcharge authorized by 28 U.S.C. § 3015); and
- c. With respect to all amounts due, all offset rights pursuant to the Treasury Offset Program.

7. To preserve the deterrent effect of the civil penalty, amounts ordered to be paid as civil penalties pursuant to this Judgment shall be treated as penalties paid to the government for all purposes, including all tax purposes.

8. The Court shall retain jurisdiction of this matter for the purposes of enforcing the terms of this Judgment.

Dated: November 13, 2019
New York, New York



ANALISA TORRES, UNITED STATES DISTRICT JUDGE